



FR-4915-01

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Information Collection Activities

AGENCY: Surface Transportation Board.

ACTION: Notice and Request for Comments.

SUMMARY: As required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3519 (PRA), the Surface Transportation Board (STB or Board) gives notice of its intent to seek from the Office of Management and Budget (OMB) approval of the information collections required from those seeking licensing authority under 49 U.S.C. 10901-03 and consolidation authority under 11323-26. Under these Title 49 provisions, rail carriers and non-carriers are required to file an application with the Board, or seek an exemption (through petition or notice) from the full application process under § 10502, before they may construct, acquire, or operate a line of railroad; abandon or discontinue operations over a line of railroad; or consolidate their interests through a merger or common-control arrangement. The relevant information collections are described in more detail below.

Comments are requested concerning: (1) the accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate; and (4) whether the collection of information is necessary for the proper performance of the functions of the Board, including whether

the collection has practical utility. Submitted comments will be summarized and included in the Board's request for OMB approval.

#### DESCRIPTION OF COLLECTIONS

*Title:* Statutory Licensing and Consolidation Authority.

*OMB Control Number:* 2140-00XX.

*STB Form Number:* None.

*Type of Review:* Existing collections in use without an OMB control number.

*Respondents:* Rail carriers and non-carriers seeking statutory licensing or consolidation authority or an exemption from filing an application for such authority.

*Number of Respondents:* 106.<sup>1</sup>

*Frequency:* On occasion.

*Table – Number of Responses in FY 2011.*

Type of Filing	Number of filings under 49 U.S.C. 10901-03 and 11323-26
Applications	3
Petitions*	18
Notices*	156

\* Petitions for exemption and notices of exemption under § 10502 are permitted in lieu

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<sup>1</sup> In Fiscal Year (FY) 2011, there were 177 filings under 49 U.S.C. 10901-03 and 11323-26. See *Table – Number of Responses in FY 2011*. However, approximately 40% of the filings were additional filings submitted by railroads that had already submitted filings during the time period. Therefore, the number of respondents is approximately 40% less than the number of filings.

of an application.

*Total Burden Hours* (annually including all respondents): 4,100 hours (sum total of estimated hours per response X number of responses for each type of filing).

*Table – Estimated Hours Per Response:*

Type of Filing	Number of Hours Per Response under 49 U.S.C. 10901-03 and 11323-26
Applications <sup>2</sup>	31 hours
Petitions*	58 hours
Notices*	19 hours

\* Petition for exemptions and notices of exemption under § 10502 are permitted in lieu of an application.

*Total “Non-hour Burden” Cost* (such as filing fees): \$669,950 (Sum of estimated “non-hour burden” cost per response X Number of Responses for each statutory section and type of filing).<sup>3</sup>

*Table – Estimated “Non-Hour Burden” Cost Per Response.*

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<sup>2</sup> Because most respondents seek authority under the expedited exemption process, rather than the more burdensome application process, the sample size for applications filed under §§ 10901-03 and 11323-26 is small. For example, under these provisions, only 3 applications were filed with the Board during the FY 2011, and those applications were not representative of the larger applications filed with the Board in the past. Two of the applications were adverse abandonment applications, which are inherently limited in size, and the other one was a relatively small application submitted under §§ 11323-26. For this reason, it is the agency’s view that available survey data understates the substantial time and cost of the application process.

<sup>3</sup> Because filing fees may vary within a particular statutory section, an average filing fee was used (except for applications under §§ 11323-26, where only minor transactions were filed in FY 2011).

Type of Cost	§ 10901	§ 10902	§ 10903	§§ 11323-26
Applications Filing Fees	N/A	N/A	\$22,100	Major - \$1,488,500 Significant - \$297,700 Minor - \$7,500
Petitions* Filing Fees	\$74,500	N/A	\$6,300	\$6,600--9,300
Notices* Filing Fees	\$1,800	\$1,800	\$3,600	\$1,100--\$2,400
Other Costs (i.e., copying and mailing)	\$450	\$450	\$450	\$450

\* Petition for exemptions and notices of exemption under § 10502 are permitted in lieu of an application.

*Needs and Uses:* Under the Interstate Commerce Act, Pub. L. No. 104-88, 109 Stat. 803 (1995), persons seeking to construct, acquire or operate a line of railroad and railroads seeking to abandon or to discontinue operations over a line of railroad or, in the case of two or more railroads, to consolidate their interests through merger or a common-control arrangement are required to file an application for prior approval and authority with the Board. See 49 U.S.C. 0901-03 and 11323-26. Under 49 U.S.C. 10502, persons may seek an exemption from many of the application requirements of §§ 10901-03 and 11323-26 by filing with the Board a petition for exemption or notice of exemption in lieu of an application. The collection by the Board of these applications, petitions, and notices

enables the Board to meet its statutory duty to regulate the referenced rail transactions.

See *Table – Statutory and Regulatory Provisions* below.

*Retention Period:* Information in these collections is maintained by Board for 10 years, after which it is transferred to the National Archives as permanent records.

DATE: Comments on this information collection should be submitted by February 13, 2011.

ADDRESSES: Direct all comments to Marilyn Levitt, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, or to [levittm@stb.dot.gov](mailto:levittm@stb.dot.gov). When submitting comments, please refer to “Statutory Licensing and Consolidation Authority.”

FOR FURTHER INFORMATION, CONTACT: Joe Dettmar at (202) 245-0395 or at [dettmarj@stb.dot.gov](mailto:dettmarj@stb.dot.gov). Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339. Relevant STB regulations are referenced below and may be viewed on the STB’s website under E-Library >

Reference: STB Rules, <[http://www.stb.dot.gov/stb/elibrary/ref\\_stbrules.html](http://www.stb.dot.gov/stb/elibrary/ref_stbrules.html)>.

SUPPLEMENTARY INFORMATION: Under §§ 10901-03 and 11323-26, an application is required to seek authority under these sections, unless an applicant receives an exemption under 49 U.S.C. 10502. Respondents seeking such authority from the Board must submit certain information required under the Board’s related regulations. The table below shows the statutory and regulatory provisions under which the Board requires the information collections that are the subject of this notice.

*Table – Statutory and Regulatory Provisions*

Certificate Required	Statutory Provision	Regulations
Construct, Acquire, or Operate Railroad Lines	49 U.S.C. 10901	49 C.F.R. pt. 1150
Short Line purchases by Class II and Class III Rail Carriers	49 U.S.C. 10902	49 C.F.R. 1150.41-45
Abandonments and Discontinuances	49 U.S.C. 10903	49 C.F.R. pt. 1152
Railroad Acquisitions, Trackage Rights, and Leases	49 U.S.C. 11323-26	49 C.F.R. pt. 1180

Under the PRA, a Federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under § 3506(c)(2)(A) of the PRA, Federal agencies are required to provide, prior to an agency's submitting a collection to OMB for approval, a 60-day notice and comment period through publication in the Federal Register concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: December 7, 2011.

Jeffrey Herzig

Clearance Clerk

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